

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7150 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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RAMABHA NANABHAI PARMAR

Versus

MAMLATDAR

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Appearance:

MR PM BHATT for Petitioners  
MR TS SOMPURA, AGP for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 15/01/97

ORAL JUDGEMENT

The subject-matter of the dispute is the lands bearing Survey nos.172/1 and 172/2, situated at Gorva, under the District of Vadodara. One Khodabhai Patel was the landlord of the said lands. The tenant was one Nanabhai Jibbhai Solanki. There was a sale transaction between the landlord and the tenant, on December 8, 1960,

under which, the said two pieces of land came to be sold to the tenant for an amount of Rs.799/-. The sale has been mutated in the revenue record, village form no.6, by mutation entry no.1350. Later on, the above said entry has been certified. Later on, the purchaser Nanabhai Jibbhai had died on February 25, 1981 and, therefore, under the entry no.3249, the names of the heirs and legal representatives, namely, two sons - Ramabhai Parmar and Melabhai Parmar and widow Kashiben came to be mutated. This entry also came to be certified later on. Kashiben, widow had thereafter expired on November 7, 1994 and, therefore, her name came to be deleted. This has resulted into the mutation entry no. 7817 which later on, came to be certified.

When everything was silent, there was a proceeding under Section 64 of the Bombay Tenancy and Agricultural Lands Act, 1948. In these proceedings it was pointed out that, the price should be in a particular standard prescribed under the Act and, therefore, the party should pay an amount of Rs.41.25 ps. to the Government. This has happened under the orders dated January 4, 1996. Later on, the above said amount of Rs.42/- came to be paid, which is evident from Annexure.G, the receipt dated January 20, 1996.

The purchasers were aggrieved by the fact that there was a mention in village form no.7/12 that the land was a new tenure land. They wanted to have get this deleted. It was also the say of the purchasers-the petitioners that the said entry could not have been made. Ultimately, this matter was taken in revision under Section 76A of the Act of 1948 by the Deputy Collector, Vadodara. It appears that, while hearing the revision, the reliance was placed upon the record and the papers of the matter and that the petitioners were not given any opportunity of being heard. In the result, therefore, the Deputy Collector, Vadodara had reached the conclusion that the earlier orders under which the proceedings have been regularised under Section 64 of the Act of 1948 were not in accordance with law and that the matter required a remand to the ALT who would impose the necessary levies and conditions on the transaction. These orders dated June 29, 1996 are in challenge in this petition before me.

The principal contention coming from learned Counsel Mr. Bhatt for the petitioners is that, the above said revisional orders came to be passed behind the back of the present petitioners, in as much as, no opportunity

whatsoever of being heard was afforded to them. Upon verifying the record, it appears that the learned Counsel is factually correct. Mr. Sompura, learned Govt. Counsel was not in a position to show me anything from which it can be deduced that the revisional proceedings came to be decided by the Deputy Collector, Vadodara after affording a reasonable opportunity of being heard to the petitioners. In view of this, the only course open to me is to grant the present petition in part, to quash and set aside the impugned orders dated June 29, 1996 and to remand the proceedings to the Deputy Collector, Vadodara for the decision according to law and on merits. I order accordingly.

It shall be open for the petitioners to raise all the contentions which they wanted to raise before me in the present petition. The remanded proceedings shall be completed and decided by the said authority as expeditiously as possible and within a period of two months hereof. Rule is made absolute to the above said extent only.

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